

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Monday, August 2, 2004

Division One

A102287 -- Tony Bello et al. v. ABA Energy Corporation

The trial court's entry of judgment in favor of the Bellos is reversed. Because the Bellos are no longer prevailing parties, the issues in their cross-appeal are moot. The cross-appeal is accordingly dismissed. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Certified for Publication.)

Division Two

A101695 -- In re Z.B., a Person Coming Under the Juvenile Court Law. Marin County Department of Social Services v. Samuel N.

The order is affirmed. Ruvolo, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

A104278 -- The People v. Rogelio Chavarrias.

The trial court's judgment and order suspending imposition of sentence are affirmed. Lambden, J. We Concur: Haerle, J., Ruvolo, J. (Not for Publication.)

A104266 -- Shannon Schneble v. Daniel Siker et al.

The judgment is affirmed. Respondent is awarded costs. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

Monday, August 2, 2004 (continued)

Division Four

A104704 -- Nataliya Cheresanskaya v. Department of Health Services.

The judgment is affirmed. Rivera, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

A104629 -- The People v. Alfonso Ochoa.

Judgment affirmed. Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION ONE

Tuesday, August 3, 2004

The Court convened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, P.J., Swager, J., and Margulies, J.; and Fred Abad, Deputy Clerk.

A104273 Cynthia Mathis,
v.
Bridget Wanzo, et al.
Cause called and argued by Lawrence Baker, counsel for appellants, and Steven McCarthy, counsel for respondent. Cause ordered submitted.

A102820 Miguel Jara, Sr.,
A104666 v.
A105119 Suprema Meats, Inc., et al.
Cause called and argued by Steven Hirsch, counsel for appellants Miguel Jara, Jr. et al., and Kenneth Nissly, counsel for respondent/cross-appellant Miguel Jara, Sr. Steven Hassing, counsel for appellant Suprema Meats, appeared but did not argue. Cause ordered submitted.

At this point in the proceedings, Justice Marchiano left the bench and Justice Stein joined the bench and presided for the remainder of the calendar.

Justice Stein moved the next case on calendar, Marriage of Navratil, to the end of the calendar, since both parties are appearing by phone.

A104252 Tod Mikuriya,
v.
Medical Board of California, et al.
Cause called and argued by William Simpich, counsel for appellant, and Jane Zack Simon, counsel for respondents. Cause ordered submitted.

A102308 Data Communications Professionals,
v.
Pacific Bell Network Integration, et al.
Cause called and argued by James Nelson, counsel for appellant, and Bryce Anderson, counsel for respondents. Cause ordered submitted.

A103403 Caspar Escher, Jr., et al.,
 v.
 Four Brothers Ventures, et al.
 Cause called and argued by James Rose, counsel for appellants, and
 Randolph Skidmore, counsel for respondents. Cause ordered submitted.

A103483 Susan Navratil,
 v.
 Mark Navratil.
 Cause called and argued by Susan Navratil, appellant in pro per via
 teleconferencing, and Philip Shecter, counsel for respondent via
 teleconferencing. Cause ordered submitted.

Court recessed until 1:30 p.m.

MINUTES

CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION ONE

Tuesday, August 3, 2004

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, P.J., Stein, J., and Swager, J.; and B. Robbins, Deputy Clerk.

At the beginning of the session, Presiding Justice Marchiano announced the Court would convene and adjourn in honor of Justice William D. Stein for his 20 years of outstanding service in the California court system, which began on August 19, 1984 when he was sworn in as a Judge of the San Francisco Municipal Court and subsequently the San Francisco Superior Court, and continues following his swearing in as a Justice of the First District Court of Appeal on August 19, 1988.

A106457 Stephanie S.,
v.
Superior Court of Marin County;
Social Services Agency, et al.

A106458 James S.
v.
Superior Court of Marin County;
Social Services Agency, et al.
Causes called and argued by Elizabeth Ann Berg, counsel for petitioner Stephanie S.; Jenie S. Chang, counsel for petitioner James S.; Byron Toma, counsel for real party in interest Social Services Agency; and Kelly Y. Reiter, counsel for real parties in interest minors. Cause ordered submitted.

A102451 The People,
v.
Terrell Cross.
Cause called and argued by Donald R. Tickle, counsel for appellant, and Dorian Jung, counsel for respondent. Cause ordered submitted.

A099796 Torey Dylan Lovett,
A099718 v.
A102027 City and County of San Francisco, et al.
Cause called and argued by Jonathan C. Rolnick, counsel for appellants,
and David C. Anton, counsel for respondent. Cause ordered submitted.

A102454 In re Joseph S.
The People,
v.
Joseph S.
Cause called and argued by Gerald A. Clausen, counsel for appellant, and
Martin S. Kaye, counsel for respondent. Cause ordered submitted.

A104209 The People,
v.
Daniel Ray Bain.
Cause called argued by Alfons G. Wagner, counsel for appellant, and
Michael Banister, counsel for respondent. Cause ordered submitted.

A101573 Rufus Idowu,
v.
Department of Real Estate.
Cause called and argued by Adam G. Slote, counsel for appellant, and
Julian O. Standen, counsel for respondent. Cause ordered submitted.

Court adjourned.

Note: No cases were heard on Monday, August 2, 2004.

Tuesday, August 3, 2004 (continued)

Division Two

A101673 -- J. Nicholas McIntosh v. Robert W. Mills et al.

The judgment is affirmed. Costs on appeal are awarded to respondents. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Certified for Publication.)

Division Three

A102546 -- Alexander Sanchez v. Thomas Weisel Partners.

The judgment is affirmed. TWP shall recover its costs on appeal. Parrilli, J. We Concur: Corrigan, Acting P.J., Pollak, J. (Not for Publication.)

Division Four

A103692 -- In re Efrem J., a Person Coming Under the Juvenile Court Law. The People v. Efrem J.

The judgment is affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication.)

Division Five

A101557 -- The People v. Michael Alan Skeen.

The judgment is affirmed. Jones, P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

Wednesday, August 4, 2004

Division Three

A105633 & A106295 -- In re Hector A., et al., a Person Coming Under the Juvenile Court Law. Alameda County Social Services Agency v. Jose A., et al.

By the Court: Upon the motion of respondent Alameda County Social Services Agency, and in the interests of justice and judicial economy, the appeals in Nos. A105633 and A106295 are ordered consolidated for purposes of all further briefing, oral argument (if any), and decision. **Counsel for all parties are directed to list both appellate case numbers on all future pleadings.**

Respondents shall file a single responding brief to the consolidated appeal in Nos. A105633 and A106295 on or before August 20, 2004. Appellants shall thereafter file their reply brief in the consolidated appeal within the time permitted by California Rules of Court, Rule 15. Future requests for extensions of time, if any, will be determined on a case-by-case basis in accordance with Rules 15(b) and 17(d) of the California Rules of Court. Appellants' motion for judicial notice of the record in the appeal in No. A105633 is denied as moot. McGuiness, P.J.

A102288 -- The People v. Jamie Devon Jack.

The enhancement for the infliction of great bodily injury under count 2 is vacated, and in all other respects the judgment is affirmed. Pollak, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

Division Five

A103008 -- The People v. Gary Allen Dodson.

The order is affirmed. Stevens, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

A103916 -- The People v. Emma Claire Felix.

The judgment is affirmed. Simons, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

Thursday, August 5, 2004

Division Two

A085450 -- The People v. Jay Shawn Johnson.

A106431 -- In re Jay Shawn Johnson, on Habeas Corpus.

The judgment is affirmed. The petition for writ of habeas corpus is denied.
Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

Division Three

A106765, A107283 -- County of Contra Costa v. The Superior Court of Contra Costa County; Sarah F. et al., R.P.I.

By the Court: On the court's own motion, the petition for writ of mandate filed in Case No. A106765 (*County of Contra Costa v. Superior Court*) and the petition for writ of mandate filed in Case No. A107283 (*City of Brentwood et al. v. Superior Court*) are consolidated for all purposes. All further submissions to the court relating to either petition or both should bear the consolidated case caption. By order dated July 30, 2004, this court directed real parties in interest to serve and file an opposition to the petition in A106765. Based upon the stipulation of the parties, the court extended the time for real parties in interest to serve and file the opposition, which is now due on or before September 16, 2004. The opposition should address all issues raised by the petitions in A106765 and A107283. You are hereby notified that if circumstances warrant, the court may issue a peremptory writ in the first instance. (See Code Civ. Proc., § 1088; *Palma v. U.S. Industrial Fasteners, Inc.* (1984) 36 Cal.3d 171, 180.) Please direct any inquiries to Ines Calanoc, Deputy clerk for Division Three, at (415) 865-7295. McGuiness, P.J.

Division Four

A103852 -- The People v. Lamonte James Beverly.

The judgment of conviction is affirmed. Kay, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

Friday, August 6, 2004

Division One

A101941 -- Sierra Club v. County of Napa et al.; Berenger Wine Estates et al., R.P.I.

The judgment is affirmed. Defendants are awarded their appellate costs. Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

A101573 -- Rufus Idowu v. Department of Real Estate.

The order of remand is reversed and the matter is remanded to the trial court with directions to enter a new order denying Idowu's petition for writ of administrative mandamus. Each party to bear its own costs of appeal. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

A102454 -- In re Joseph S., a Person Coming Under the Juvenile Court Law. The People v. Joseph S.

The judgment is affirmed. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

A106457, A106458 -- Stephanie S. et al. v. Marin County Superior Court, R.P.I.

The petition for extraordinary writ is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894; *Bay Development, Ltd. v. Superior Court* (1990) 50 Cal.3d 1012, 1024.) The section 366.26 hearing is set for August 17, 2004. Therefore, our decision is final in this court immediately. (Cal. Rules of Court, rule 24(b)(3).) Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

Friday, August 6, 2004 (continued)

Division Three

A106616 -- Brenna P. v. The Superior Court of Lake County; Lake County Department of Social Services/Family Services, R.P.I.

The petition for extraordinary relief is denied on the merits. (See Cal. Const., art VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894.) Since the permanency planning hearing is set for August 23, 2004, our decision is immediately final as to this court. (Cal. Rules of Court, rule 24(d).) Pollak, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

Division Five

A102655 -- Joseph A. Atencio et al. v. Randy Feriante et al.

The order denying defendant Feriante's special motion to strike is reversed and the matter is remanded with instructions to grant the motion and dismiss all causes of action against Feriante. The order denying defendant Yanus's special motion to strike is affirmed with respect to the first, second, fourth, and sixth causes of action, and reversed as to the third and fifth causes of action; the matter is remanded with instructions to grant the motion as to the third and fifth causes of action and to dismiss those causes of action. Defendant Feriante shall recover his costs on appeal. Gemello, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

A104831 -- In re Billy B., a Person Coming Under the Juvenile Court Law. The People v. Billy B.

The disposition order is reversed, in part, and the matter remanded so that a contested restitution hearing can be held. In all other respects, the disposition order is affirmed. Simons, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

Friday, August 6, 2004 (continued)

A101379 -- The People v. Paul Wayne King.

The judgment is reversed as to the sentence only. The one-year enhancements on “Priors” 7, 8 and 9 are ordered stricken. The matter is remanded for retrial on this issue of whether the section 245, subdivision (a) prior conviction qualifies as a serious felony and strike conviction, and for resentencing. The abstract of judgment is ordered corrected in accordance with this opinion. In all other respects, the judgment is affirmed. Simons, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

A103449 -- North Hills Phoenix Association et al. v. City of Oakland, John Allen et al., R.P.I.

The trial court’s order denying the special motion to strike is affirmed. Plaintiffs shall recover their costs on appeal. Gemello, J. We Concur: Stevens, Acting P.J., Simons, J. (Not for Publication.)

A102830 -- The People v. Joseph Ignacio Pagaduan.

The judgment is affirmed. Simons, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

Monday, August 9, 2004

Division One

A104209 -- The People v. Daniel Ray Bain.

The judgment is affirmed. Marchiano, P.J. We Concur: Stein, J., Margulies, J. (Not for Publication.)

Division Five

A105310 -- Peter Bogert v. Steven Gourley, Director of The Department of Motor Vehicles.

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Gemello, J. (Not for Publication.)

A103442 -- William B. Rivers v. Zoe Scolari et al.

The order striking the memorandum of costs is affirmed. Gemello, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

Tuesday, August 10, 2004

Division One

A105449 -- In re the Petition of Geraldine Bell Langley to Establish Fact of Marriage.

The order appealed from is affirmed. Marchiano, P.J. We Concur: Stein, J., Margulies, J. (Not for Publication.)

A103403 -- Caspar H. Escher, Jr., et al. v. Four Brothers Ventures, LLC.

The trial court's judgment is affirmed. Margulies, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

Division Two

A104117 -- Michael J. Seligsohn et al. v. Philip R. Day, Jr., et al.

The judgment appeal from is reversed and the matter remanded to the trial court for action not inconsistent with the foregoing opinion. Costs on appeal are awarded to appellants. Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Certified for Publication.)

Division Three

A105907 -- The People v. Robert Christian Brusell.

The judgment is affirmed. Parrilli, J. We Concur: McGuinness, P.J., Corrigan, J. (Not for Publication.)

Division Four

A100574 -- The People v. Royce Ford, Jr.

The judgment is affirmed. Kay, P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

Tuesday, August 10, 2004 (continued)

A103910 -- The People v. Anthony Charles Holmes.

The judgment is affirmed. Kay, P.J. We Concur: Sepulveda, J., Rivera, J.
(Not for Publication.)

MINUTES
CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION FOUR

Tuesday, August 10, 2004

The Court convened at 9:30 a.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco, California. Present: Kay, P.J., and Sepulveda, J.; Channing Hoo, Deputy Clerk; CHP Officer Vince Chambers, Bailiff.

A104302 Jacqueline K. Matheson

v.

Fildres Runez

Cause called. Jonathan Do argued for appellant Matheson. James Hand argued for respondent. Cause submitted.

At this point the court reconstituted itself to include: Kay, P.J., Sepulveda, J. and Rivera, J.

A104268 Ronald M. Varni

v.

Maureen S. Ticer

Cause called. Lloyd R. Crenna argued for appellant Varni. Susan Handelman argued for respondent. Cause submitted.

The Court adjourned at 10:06 a.m.

Tuesday, August 10, 2004 (continued)

Division Five

A104208 -- The People v. Jose Delacruz Villegas.

The trial court is ordered to prepare and forward to the Department of Corrections an amended abstract of judgment showing that appellant is not obligated to register as a sex offender under section 290. In all other respects, the order revoking probation is affirmed. Jones, P.J. We Concur: Stevens, J., Gemello, J. (Not for Publication.)

Wednesday, August 11, 2004

Division One

A106130 -- The People v. Jose Anthony Aguirre.

We find no arguable issues that require further briefing and accordingly, affirm the judgment. Margulies, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

A105333 -- In re Michael O., a Person Coming Under the Juvenile Court Law. The People v. Michael O.

For the reasons stated, the juvenile court's orders are affirmed. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

Division Two

A104522 -- The People v. Donald Burgess.

The judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

A102556 -- The People v. Carlos Ulises Rivera.

We affirm the trial court's sentencing of appellant to prison for 25 years to life as provided for by section 667.61 for committing a lewd and lascivious act by force upon an 11-year-old child whom appellant had kidnapped. Appellant's conviction for forcible rape is reversed because it is a necessarily included lesser offense in appellant's conviction for aggravated sexual assault on a child. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION TWO

Wednesday, August 11, 2004

The Court met at 9:30 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Kline, P.J., Haerle, J., Ruvolo, J., and I. Santos, Deputy Clerk.

A106699 Vanessa O.
v.
Superior Court;
Social Services Agency, et al., RPI.
Cause called and argued by Chantal Sampogna, counsel for petitioner, and Maisie Sokolove, a certified law student, counsel for real parties in interest. Cause ordered submitted.

A101998 The People,
v.
Ralph Armson.
Cause called and argued by William Balin, counsel for appellant, and Sharon Birenbaum, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

At this point in the proceedings, Justice Lambden joined the bench for the remainder of the calendar and Presiding Justice Kline left the bench.

A102698 George Avanessian,
v.
Innovative Design Group.
Cause called and argued by Hal Block, counsel for appellant, and David Morgan, counsel for respondent. Cause ordered submitted.

A105311 Robert E. Gross,
v.
Charles W. Elmer et al.
Cause called and argued by Kenneth Sisco, counsel for appellant, and James King, counsel for respondent. Cause ordered submitted.

A101834 In re Marriage of Dana and Karen Ballerini.

Dana Ballerini,

v.

Karen Ballerini.

Cause called and argued by Charles J. Katz, counsel for appellant, and Karen Ballerini, in pro per for respondent. Cause ordered submitted.

A102856/
A103047

U-Haul Co. of California,

v.

Steven Gourley, as Director.

Cause called and argued by John Schell, via telephonic, counsel for appellant, and Kathy Banke, counsel for respondent. Cause ordered submitted.

Court recessed until 1:30 p.m.

Court reconvened at 1:30 p.m. Present: Kline, P.J., Lambden, J., Ruvolo, J., I. Santos, Deputy Clerk and S. Wheeler, Deputy Clerk.

A104556

James J. Byrnes, et al.,

v.

John T. Rendon.

Cause called and argued Fredrik Sture Emilson, counsel for appellant, and Daniel Berko, counsel for respondent. Cause ordered submitted.

A102069

Leanna Condon,

v.

UNOCAL/Union Oil Company of California.

Cause called and argued by Eugene Brown, counsel for appellant, and Bryce Anderson, counsel for respondent. Cause ordered submitted.

A100996

Donald E. Yeager, et al.,

v.

Chevron U.S.A., Inc.

Cause called and argued by Bryce Anderson, counsel for appellant, and Frederick Baker, counsel for respondent. Cause ordered submitted.

At this point in the proceedings, Justice Haerle joined the bench for the remainder of the calendar and Justice Ruvolo left the bench.

A102866

Kenneth David Beebe, et al.,

v.

Darrel J. Beasley, et al.

Cause called and argued by Thomas J. Becker, counsel for appellant, and William Robert Bragg, counsel for respondent. Cause ordered submitted.

A101730

A.F. Reeves, et al.,

v.

Douglas B. Shears, et al.

Cause called and argued by Bradford C. Floyd (via teleconference), counsel for appellant, and Robert Allen Zigler (via teleconference), counsel for respondent. Cause ordered submitted.

COURT ADJOURNED.

Wednesday, August 11, 2004 (continued)

Division Five

A107352 -- In re Raul N. et al., Persons Coming Under the Juvenile Court Law. Alameda County Social Services Agency v. Irma M.

By the Court: By notices of appeal filed on June 30, 2004, appellant Irma M. purports to appeal from the trial court's December 17, 1996 jurisdictional findings in the above-referenced dependency matters. Five years ago, this court affirmed the trial court's subsequent order terminating appellant's parental rights as to all three minors. (See *In re Raul N.* (Aug. 11, 1999, A084530; [nonpub. opn.].) Because appellant's parental rights have been terminated, a decision that is long since final, she lacks standing to pursue the instant appeal, which is hereby dismissed. Jones, P.J.

A102400 -- The People v. Allen Kennedy.

The judgment of conviction is affirmed, but the prior prison term sentence enhancement relating to appellant's 1993 felony conviction is vacated. The matter is remanded to the trial court with instructions to correct the abstract of judgment in conformance with this opinion, and to forward the corrected abstract of judgment to the Department of Corrections. Stevens, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

A102923 -- The People v. Ruben Nava.

The judgment is affirmed. Gemello, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

A101230 -- The People v. Waynezal Walker.

A101494 -- The People v. Marwan Emery.

As to appellant Emery, the matter is remanded to the trial court in accordance with this opinion. The judgments are otherwise affirmed. Stevens, J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

Thursday, August 12, 2004

Division One

A101351 -- The People v. Fred Cross.

By the Court: The petition for rehearing is denied. Marchiano, P.J.

Division Two

A104185 -- In re Vermar L., a Person Coming Under the Juvenile Court Law. The People v. Vermar L.

The judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

A103697 -- In re Josiah W., a Person Coming Under the Juvenile Court Law. The People v. Josiah W.

The order of the juvenile court is affirmed. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

A106596 -- Kimberly W. v. The Superior Court of Alameda County; Alameda county Social Services Agency, R.P.I.

The petition for extraordinary writ is denied on the merits. Since the permanency planning hearing is presently set for August 25, 2004, our decision on the writ petition is final as to this court immediately. (Rule 24(b)(3).) Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

Division Three

A100414 -- Elizabeth Vazquez v. The California Department of Developmental Services.

By the Court: The petition for rehearing is denied. McGuinness, P.J.

Friday, August 13, 2004

Division One

A104273 -- Cynthia Mathis v. Bridget Wanzo et al.

The judgment is affirmed. Margulies, J. We Concur: Marchiano, P.J.,
Swager, J. (Not for Publication.)

Division Two

A103175 -- The People v. Michelle V. Garcia.

The judgment is affirmed. Kline, P.J. We Concur: Haerle, J., Ruvolo, J.
(Not for Publication.)

Monday, August 16, 2004

Division Two

A102338 -- The People v. Orlando Alexis Malave.

The judgment is affirmed. Kline, P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

A104345 -- In re Paige R., et al., Minors. Paul R. and Rhonda N.

The judgment is affirmed. Lambden, J. We Concur: Haerle, J., Ruvolo, J. (Not for Publication.)

Division Three

A104782 -- In re Jerred H., a Person Coming Under the Juvenile Court Law. Jerred H. v. Contra Costa County Children and Family Services Bureau.

The order denying Jerred's section 388 petition and his oral request to have Norman declared his presumed father is affirmed. Pollak, J. We Concur: McGuiness, P.J., Parrilli, J. (Certified for Publication.)

A103381 -- The People v. Michael David Woody.

The judgment of conviction on counts 5 through 7 is reversed. In all other respects the judgment is affirmed. Pollak, J. We Concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

Division Four

A104749 -- In re C. C., a Person Coming Under the Juvenile Court Law. Alameda County Social Services Agency v. Leslie C.

The order is affirmed. Kay, P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

Monday, August 16, 2004 (continued)

Division Five

**A102489 -- John Garamendi, as Insurance Commissioner, etc. v.
Golden Eagle Insurance Company, Jim Francis et al.**

The January 10, 2002 order partially granting application for the order to show cause, and the March 7, 2003 order granting application for the order to show cause are vacated, and the matter is remanded for further proceeding consistent with this decision. Golden Eagle shall recover its costs on appeal. Simons, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

Tuesday, August 17, 2004

Division One

A101100 -- Scott Wilbanks et al. v. Gloria Wolk.

The order granting the special motions to strike and awarding attorney fees to Wolk is reversed. Plaintiffs are awarded their costs on appeal. Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Certified for Publication.)

Division Two

A095846 -- Yvette Munoz et al. v. City of Union City et al.

The Court: Order Modifying Opinion and Denying Rehearing. It is ordered that the opinion filed herein on July 23, 2004, be modified as follows: (See order.) There is no change in the judgment. The parties' respective petitions for rehearing are denied. Haerle, Acting P.J. (Certified for Publication.)

A102921 -- Alberta O'Brien et al., as Administrators, etc. v. Lowell Thomas et al.

The appeal is dismissed. Haerle, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

A104772 & A105254 -- Estate of Edward U. Regli, Deceased.

The motion is denied. Haerle, J. We Concur: Kline, P.J., Ruvolo, J. (Certified for Publication.)

A102768 -- The People v. Bryan E. Russell.

The judgment is affirmed. Kline, P.J. We Concur: Haerle, J., Ruvolo, J. (Not for Publication.)

Tuesday, August 17, 2004 (continued)

A105763, A107416 -- The People v. John Caudle. In re John Caudle, on Habeas Corpus.

By the Court: On the court's own motion, the petition for a writ of habeas corpus, In re Caudle, A107416, is consolidated with the appeal in People v. Caudle, A105763. This court's determination of whether to issue an order to show cause will be deferred until the issues on the appeal have been considered. The Attorney General is directed to furnish opposition to the petition on or before the date of filing of the respondent's brief in A105763. Petitioner's response, if any, must be filed on or before the date of filing of the appellant's reply brief in A105763. Please direct any inquiries to Ines Calanoc, Deputy Clerk for Division Three, at (415) 865-7295. Corrigan, Acting P.J.

Division Three

A102614 -- The People v. Porfirio Juarez.

The judgment is affirmed. Parrilli, J. We Concur: McGuinness, P.J., Pollak, J. (Not for Publication.)

Division Four

A104121 -- In re Jayson Wayne Dikes, on Habeas Corpus.

The Court: The request for publication filed by appellant Tom L. Carey, Warden of California State Prison, Solano, and the California Department of Corrections on July 30, 2004, is granted. (See order.) There is no change in the judgment. Kay, P.J. (Certified for Publication.)

Division Five

A104303 -- In re the Marriage of Charles and Lillie Sawyer.

The judgment of nullity is affirmed. The order awarding sanctions is reversed and remanded for clarification. The parties shall bear their own costs on appeal. Simons, J. We Concur: Stevens, Acting P.J., Gemello, J. (Not for Publication.)

Wednesday, August 18, 2004

Division Two

A104556 -- James J. Byrnes et al. v. John T. Rendon.

The judgment is affirmed. The Byrnes are awarded costs. Lambden, J.
We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

A100944 -- Perry Wells et al. v. Rockwell Automation, Inc.

The judgment is affirmed. Ruvolo, J. We Concur: Kline, P.J., Lambden,
J. (Not for Publication.)

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

Wednesday, August 18, 2004

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California.

Present: Corrigan J., Pollak J., and Parrilli J., and C. Turner, Deputy Clerk.

Justice Corrigan announced that the panel for A104072 Alsugire v. Gerson Bakar & Associates, et. al., is comprised of McGuiness PJ., Pollak J., and herself, but that McGuiness J., is unavailable for oral argument. All parties were informed that McGuiness P.J., will have access to and will review the taped proceedings and counsel agreed to waive his personal appearance. The court proceeded with argument.

A104072 Ghassan Alsugire,
v.
Gerson Bakar & Associates, et al.,
Cause called and argued by James Kraus, counsel for appellant, and David
Matthew McKim, counsel for respondent.
Cause ordered submitted

A103434 Charles Gardyn
v.
City of Benecia, et al.,
Justice McGuiness announced that the panel is comprised of Justice Parrilli,
Justice Pollak and himself.
Cause ordered submitted. Robert J. Zweben, counsel for appellant, and
Gregory Palmer, counsel for respondent.
Cause ordered submitted.

Justice Pollak left the bench.
A102474 The People,
v.
Durwin Lamonte Harper,
Cause called and argued by Mark H. Shenfield, counsel for appellant, and
Seth K. Schalit, counsel for respondent.
Cause ordered submitted.

A103593 Edward Fabiszewski, et al.,
v.
Patricia Barbera,

Cause called and argued by Ted W. Pelletier, counsel for appellant, and Robert Epstein, counsel for respondent.

Cause ordered submitted.

A101571 Virologic, Inc.,

A102811 v.

John Doe, et al.,

Cause called and argued by Lorie Renee Ploeger, counsel for appellant, and Joshua Kathrie Koltun, counsel for respondent.

Cause ordered submitted.

Court Adjourned

Wednesday, August 18, 2004 (continued)

Division Four

A104078 -- Steven Frye v. Tenderloin Housing Clinic, Inc.

The Court: Order Modifying Opinion and Denying Rehearing. It is ordered that the opinion filed herein on July 27, 2004, be modified as follows: (See order.) There is no change in the judgment. Respondent's petition for rehearing is denied. Kay, P.J. (Certified for Publication.)

Thursday, August 19, 2004

Division One

A105813 -- In re Kevin M., a Person Coming Under the Juvenile Court Law. The People v. Kevin M.

The judgment is affirmed. Swager, J. We Concur: Stein, Acting P.J., Margulies, J. (Not for Publication.)

A105422 -- In re Eduardo R., a Person Coming Under the Juvenile Court Law. The People v. Eduardo R.

We remand the matter to the juvenile court for the limited purpose of addressing whether the presence of appellant's brother in the home requires any modification of the no-association condition. In all other respects, we affirm the dispositional order appealed from. Margulies, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

A101971 -- The People v. Gwain V. Walters.

The judgment is affirmed. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

Division Two

A101834 -- In re the Marriage of Dana and Karen Ballerini.

The order appealed from is affirmed. Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

Division Three

A103472 -- Conservatorship of the Estate of Roberta F. Wilson.

The order appointing respondent probate conservator of Roberta Wilson is affirmed. Appellant shall pay respondent's costs on appeal. McGuinness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

Thursday, August 19, 2004 (continued)

Division Four

A104764 -- The People v. Christopher Michael Cairati.

The Court: The petition for rehearing filed by appellant on August 5, 2004, is denied. The opinion filed herein on July 23, 2004, is ordered modified. (See order.) There is no change in the judgment. Reardon, Acting P.J. (Not for Publication.)

A104268 -- Ronald M. Varni v. Maureen S. Ticer, as Trustee, etc.

The judgment is affirmed. Rivera, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

Division Five

A105713 -- Loli Victoria Wang v. City of Oakland et al.

The judgment of dismissal is affirmed. Defendant City of Oakland is awarded its costs on appeal. Gemello, J. We Concur: Stevens, Acting P.J., Simons, J. (Not for Publication.)

Friday, August 20, 2004

Division One

A104894 -- Matt Bonfigli et al. v. Christopher St. John et al.

The summary judgment is reversed. Each party shall bear their own costs on appeal. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

A101573 -- Rufus Idowu v. Department of Real Estate.

By the Court: Since this court's August 6, 2004 opinion does not meet the standard for publication as set forth in rule 976(b) of the California Rules of Court, the request for publication is denied. Pursuant to rule 978(a) of the California Rules of Court, the Clerk is directed to forward to the Clerk of the Supreme Court the request for publication, the opinion, and a copy of this order. Marchiano, P.J.

A101966 -- The People v. Walter Leon Meyer.

By the Court: The petition for rehearing is denied. Marchiano, P.J.

A104252 -- Tod Mikuriya v. Medical Board of California et al.

The judgment is affirmed. Swager, J. We Concur: Stein, Acting P.J., Margulies, J. (Not for Publication.)

Division Two

A103817 -- In re the Marriage of Lilia M. Gonzales and Robert E. Gonzales.

The judgment is affirmed. Ruvolo, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

Friday, August 20, 2004 (continued)

Division Three

A103434 -- Charles Gardyn v. City of Benicia.

The judgment denying Gardyn's writ of petition is affirmed. The City of Benicia is to recover its costs on appeal. Pollak, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

Division Four

A104302 -- Jacqueline Seaton v. Fildres Runez et al.

The judgment is affirmed. Defendants are awarded costs on appeal. (See Cal. Rules of Court, rule 27.) Sepulveda, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

A104769 -- The People v. Mickey Stewart.

The judgment is affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication.)

Division Five

A104204 -- William Hernandez et al. v. Peter Magowan et al.

The judgment is affirmed. Jones, P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

A098067 -- Robert Roe v. State Personnel Board, Department of Justice, R.P.I.

A098624 -- Robert Roe v. State Personnel Board; Department of Justice, R.P.I.

By the Court: The opinion filed July 22, 2004, is ordered modified as follows: (See order.) This modification makes no change in the judgment. Appellant Roe's petition for rehearing is denied. Respondent Department of Justice's request for depublication is denied. Jones, P.J. (Certified for Partial Publication.)

Monday, August 23, 2004

Division Three

A104072 -- Ghassan Alsugire v. Gerson Bakar & Associates et al.

The order denying the special motion to strike is affirmed. Alsugire shall recover his costs on appeal. Pollak, J. We Concur: McGuinness, P.J., Corrigan, J. (Not for Publication.)

A100236 -- The People v. Michael K. Brown.

The judgment is affirmed. McGuinness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

Division Five

A104475 -- Joy Elizabeth Johnson v. Joseph Lewis Saunders et al.

The motion to augment filed March 19, 2004, is granted. The order granting the special motion to strike is affirmed. Stevens, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

Tuesday, August 24, 2004

Division One

A103093 -- The People v. Gregory Boyd, Jr.

The judgment is affirmed. Margulies, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

A103693; A104969 -- Maureen O'Toole v. Regents of the University of California.

The case was tried, and won, on a breach of contract theory. The trial court did not abuse its discretion in denying O'Toole's post-trial motions. The judgment and orders appealed from are affirmed. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

A105846 -- In re Donald S., a Person Coming Under the Juvenile Court Law. The People v. Donald S.

The judgment is affirmed. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

Division Two

A103414 -- The People v. Andre Demitries Hughes.

The judgment is reversed and the cause remanded to the trial court. If appellant moves to withdraw his plea within 30 days of the finality of our decision, the superior court is directed to vacate the plea and reinstate the information for further proceedings. Should appellant not move to withdraw his plea within the 30-day period, the superior court is directed to reinstate the judgment. Ruvolo, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

Division Three

A101474 -- In re Hannah A., a Person Coming Under the Juvenile Court Law. Alameda County Social Services Agency v. Amelita A. et al.

The jurisdictional order is affirmed. Pollak, J. We Concur: McGuinness, P.J., Parrilli, J. (Not for Publication.)

Tuesday, August 24, 2004 (continued)

A098086 -- The People v. Dorian E. Flippin.

The judgment is affirmed. Corrigan, Acting P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

A104911 -- Raimi Shoaga v. Kenneth Young, et al.

The judgment of the trial court in respondents' favor is affirmed. Appellant shall pay respondents' costs on this appeal. McGuiness, P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

A102445 -- The People v. Marcellus Carpenter.

The conviction in count four for receiving stolen property (§ 496, subd. (a)) is reversed. The conviction in counts one through three for lesser included offenses of grand theft (§ 487), petty theft (§ 484), simple battery (§ 242), and simple assault (§ 240) are also reversed. The judgment is modified to stay imposition of sentence in count two for battery with serious bodily injury (§ 243, subd. (d)). In all other respects, the judgment is affirmed. Parrilli, J. We Concur: Corrigan, Acting P.J., Pollak, J. (Not for Publication.)

A105807 -- The People v. Marvin Winkfield.

The judgment is affirmed. Pollak, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

MINUTES
CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION FOUR

Tuesday, August 24, 2004

The Court convened at 9:30 a.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco, California. Present: Kay, P.J., Reardon, J. and Rivera, J.; Pamela Aguilar, Deputy Clerk; Guardsmark Officer Tamika Bell, Bailiff.

A103244 Kenneth B. Tishgart

v.

Julius DeJesus

Cause called. Appellant Kenneth Tishgart argued on his own behalf via telephone. Lindsay K. Slatter argued for respondent. Cause submitted.

A102544 Eileen Quacchia

v.

DaimlerChrysler Corporation

Cause called. Kimberly Kralowec argued for appellant Quacchia. Theodore J. Boutrous, Jr. argued for respondent. Cause submitted.

A102960 Johanna Parcham Welty

v.

Frank A. Welty III

Cause called. Gerald W. Filice argued for appellant Johanna Welty. Harry L. Styron argued for respondent. Cause submitted.

A104744 Steven L. Gomes et al.

v.

Ukiah Unified School District

Cause called. Brian C. Carter argued for appellants Gomes et al. Ryan J. Artola argued for respondent. Cause submitted.

A105263 Richard Bergmann

v.

Malcolm Johns et al.

Cause called. Bruce M. Lubarsky argued for appellant Bergmann. Respondent Malcolm Johns argued on his own behalf. Cause submitted.

A103888

Far Eastern Group

v.

Thomas Hix et al.

Cause called. Joseph R. Polverari argued for appellants Hix et al. Heather McKee argued for respondent. Cause submitted.

The Court adjourned at 11:34 a.m.

Wednesday, August 25, 2004

Division One

A103624 -- The People v. Raukmar Johnson.

The judgment is affirmed. Stein, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

A106699 -- In re Jazmine L., a Person Coming Under the Juvenile Court Law. Vanessa O. v. Superior Court.

The petition for extraordinary relief is denied on the merits consistent with the views expressed in this opinion. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888.) The juvenile court is directed to vacate the order referring the matter for a section 366.26 hearing and to hold a special hearing in order to review whether proper notice was provided under the ICWA. This opinion is final as to this court immediately. (Rule 24(b)(3).) Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Division Two

A099241 -- Alexander Gorovitz v. Carole Ann Marshall.

The judgment is affirmed. Kline, P.J. We Concur: Haerle, J., Ruvolo, J. (Not for Publication.)

Division Three

A104620 -- In re Maurice B., a Person Coming Under the Juvenile Court Law. San Francisco County Department of Social Services v. Elizabeth S. et al.

The order terminating parental rights is affirmed. Corrigan, J. We Concur: McGuinness, P.J., Pollak, J. (Not for Publication.)

Wednesday, August 25, 2004 (continued)

A104806 -- In re Danielle F., et al., Persons Coming Under the Juvenile Court Law. San Mateo County Social Services Agency v. Jane F.

The order denying the section 388 petition is affirmed. The order terminating parental rights is reversed, and the matter is remanded for the limited purpose of securing compliance with the notice requirements of the ICWA. If no tribe asserts its rights under the Act, the court shall reinstate its order terminating parental rights. If a tribe does assert its rights, the court shall proceed according to the dictates of the ICWA. Parrilli, J. We Concur: Corrigan, Acting P.J., Pollak, J. (Not for Publication.)

A102474 -- The People v. Durwin Lamonte Harper.

The judgment revoking appellant's probation is affirmed. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

A101995 -- The People v. Kimberly Nicole Romby.

By the Court: Order Granting Petition For Rehearing. The petition for rehearing is granted. The opinion filed on July 27, 2004, is hereby vacated. Supplemental briefing on the issues raised in the petition for rehearing is deferred until further order of the court. McGuiness, P.J. (Not for Publication.)

Division Four

A102952 -- Angela M. Hamilton v. Brian Hamilton.

The orders of the trial court are affirmed. Rivera, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

Division Five

A103658 -- In re the Marriage of Mose L. and Nena P. McBeth.

Husband's appeal and Wife's protective cross appeal are dismissed. The petition for extraordinary writ is denied. Wife is awarded costs. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

DIVISION FIVE

Wednesday, August 25, 2004

Court convened at 9:30 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Jones, P.J.; Stevens, J., Gemello, J.; and Richard H. Sandvik, Deputy Clerk.

A10341 Harold Hanerfeld

2

v.

City of Berkeley Rent Stabilization Board

Cause called and argued by Charles N. Bendes, counsel for appellant, and by Donald A. Tine, counsel for respondent. Cause ordered submitted.

A10327 Audrey Potts

1

v.

Gilbert T. Graham

Cause called and argued by Fred J. Hiestand, counsel for appellant, and by Robert De Vries, counsel for respondent. Cause ordered submitted.

Court adjourned at 9:50 a.m.

Thursday, August 26, 2004

Division One

A104857 -- In re Luther A. et al., Persons Coming Under the Juvenile Court Law. Alameda County Social Services, Children and Family Services v. Tony R.

The order is affirmed. Stein, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

Division Four

A105577 -- In re the Marriage of Cheri D. and Keith W. Melville.

The order is affirmed. Kay, P.J. We Concur: Reardon, J., Rivera, J. (Not for Publication.)

A105928 -- The People v. Alfonso D. Edington.

The judgment is affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication.)

A102419 -- The People v. Andre Toliver.

The judgment is affirmed. Rivera, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

A102960 -- In re the Marriage of Frank A. Welty III and Johanna Parchem Welty.

The order on reserved issues is affirmed. Reardon, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)

MINUTES

COURT OF APPEAL STATE OF CALIFORNIA FIRST APPELLATE DISTRICT

DIVISION FIVE

Thursday, August 26, 2004

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Jones, P.J.; Stevens, J., Simons, J., Gemello, J.; and Richard H. Sandvik, Deputy Clerk.

A09860 Donna Grah, et al.

7

v.

Dillingham Construction

Cause called and argued by Angus M. MacLeod, counsel for appellant, and by Christopher Adnreas, counsel for respondent. Cause ordered submitted.

A09881 Donna Grah, et al.

8

v.

ExxonMobil Corporation

Cause called and argued by William H. Armstrong, counsel for appellant, and by Christopher Andreas, counsel for respondent. Cause ordered submitted.

A10488 Raymond Conness

8

v.

Usha Satram

Cause called and argued by Tara M. Berta, counsel for appellant, Raymond Conness, respondent, in pro per, did not appear. Cause ordered submitted.

A10295 Nicole Nunn

3

v.

City And County Of San Francisco

Cause called and argued by Gerald A. Clausen, counsel for appellant, and by John P. Aubrey, counsel for respondent. Cause ordered submitted.

A10345 Nicole Nunn
3 v.
City And County Of San Francisco
Zenith Insurance Company
Cause called and argued by Gerald A. Clausen, counsel for appellant, and by John P. Aubrey, counsel for respondent. Cause ordered submitted.

A10354 The People
7 v.
Enrique Vargas
Cause called and argued by Peggy A. Headley, counsel for appellant, arguing via teleconference, and by Violet Lee, counsel for respondent. Cause ordered submitted.

A10335 Linda Pickett
0 v.
San Mateo Union School District
State of California
Cause called and argued by Linda Pickett, appellant, in pro per, arguing via teleconference, and by Diane Finkelstein, counsel for respondent. Cause ordered submitted.

A10525 Anthony Lamperti
3 v.
U.S. Bank, et al.
Cause called and argued by George A. McKray, counsel for appellant, and by Juan C. Basombrio, counsel for respondent. Cause ordered submitted.

A10189 The People
3 v.
Dennis Jon McGraw
Cause called and argued by Stephen B. Bedrick, counsel for appellant, and by Aileen Bunney, counsel for respondent. Cause ordered submitted.

A10256 Jaswant Dhillon, et al.
7 v.
Chevron U.S.A. Inc. et al.
Cause called and argued by Craig Stewart, counsel for appellant, and by Richard L. Perez, counsel for respondent. Cause ordered submitted.

A10285 Jaswant Dhillon, et al.

9 v.

Chevron U.S.A. Inc. et al.

Cause called and argued by Craig Stewart, counsel for appellant, and by Richard L. Perez, counsel for respondent. Cause ordered submitted.

A10488 In Re The Estate Of Frances Cueny, Deceased.

0 Susan Fuller

v.

Robert Schafer

Cause called and argued by Thomas L. Shelton, counsel for appellant, and by Mark Johnson, counsel for respondent. Cause ordered submitted.

Court adjourned at 12:10 a.m.

Friday, August 27, 2004

Division One

A105603 -- The People v. Terry L. Hopkins.

The judgment is affirmed. Stein, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

Division Three

A103209 -- The People v. Michael Allen Albro.

The judgment is affirmed. Pollak, J. We Concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

A103593 -- Edward Fabiszewski, et al. v. Patricia Barbera.

The order appealed from is affirmed. Appellant shall pay respondents' costs on this appeal. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

Division Five

A105318 -- In re Heather M., a Person Coming Under the Juvenile Court Law. Humboldt County Department of Health and Social Services v. Jolene H.

The judgment is affirmed. Gemello, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

Monday, August 30, 2004

Division One

A102820 -- Miguel Jara, Sr. v. Suprema Meats, Inc., et al.

A104666, A105119 -- Miguel Jara, Sr. v. Suprema Meats, Inc.

We reverse the judgment and the order granting plaintiff's motion for attorney fees entered September 26, 2003, and order compelling compliance with judgment entered December 4, 2003. The parties are to bear their own costs on appeal. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Certified for Publication.)

A101603 -- The People v. Connie McFadden.

Accordingly, the judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

Division Two

A104498 -- Jenifer Arroyo v. Melvin Hunter.

The judgment is affirmed. Respondent is awarded costs on appeal. Ruvolo, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

A103620 -- The People v. Marlin Ronald Belperio.

The judgment is reversed. This matter is remanded to the superior court with directions to vacate its order denying the motion to suppress, enter a new order granting the motion, and afford appellant an opportunity to withdraw his nolo contendere plea. (See *People v. Stewart, supra*, 113 Cal.App.4th at pp. 256-257.) Ruvolo, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

Monday, August 30, 2004 (continued)

A106713 -- In re Jessie L., a Person Coming Under the Juvenile Court Law. Susan T. v. The Superior Court of Alameda County; Alameda County Social Services Agency, R.P.I.

Let an extraordinary writ issue directing the Alameda County Superior Court to vacate its April 20, 2004, order in Case No. A106713 setting a hearing under section 366.26 for Jessie L. The court shall enter a new and different order affording Mother notice of a rescheduled review hearing. In the interest of justice, our decision is final as to this court immediately. (Cal. Rules of Court, rule 24(b)(3).) Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

A106185 -- Velma Livingston v. Albertson's Inc. et al.

The appeal is dismissed. Respondents shall recover their costs on appeal. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

Division Three

A105094 -- In re Raquel C., a Person Coming Under the Juvenile Court Law. Contra Costa County Bureau of Children and Family Services v. Don C.

The orders of the juvenile court are affirmed. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

A104814 -- In re Marcus G., a Person Coming Under the Juvenile Court Law. The People v. Marcus G.

The judgment is affirmed. Pollak, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

A104745 -- In re Matthew G., a Person Coming Under the Juvenile Court Law. The People v. Matthew G.

The judgment is affirmed. Pollak, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

Monday, August 30, 2004 (continued)

A104186 -- In re Lana W., et al., Persons Coming Under the Juvenile Court Law. Solano County Department of Health and Social Services v. Cornice R.

The appeal is dismissed as moot. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

Division Four

A105424 -- Shannon Boyce v. Benbow Inn.

The judgment is affirmed. Kay, P.J. We Concur: Reardon, J., Rivera, J. (Not for Publication.)

A104366 -- In re T.P., a Person Coming Under the Juvenile Court Law. Contra Costa County Department of Children and Family Services v. Cynthia C. et al.

The juvenile court orders are affirmed. Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

Division Five

A104443 -- People v. John Robert Turton.

The judgment of conviction is affirmed. Stevens, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

Tuesday, August 31, 2004

Division One

A105089 -- In re Rickie P., a Person Coming Under the Juvenile Court Law. The People v. Rickie P.

The order appealed from is affirmed. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

A104526 -- The People v. William Pulley.

The judgment is affirmed. Stein, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

Division Two

A102833 -- The People v. Sidney Morgan Brown.

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

A102069 -- Leanna Condon v. Union Oil Company of California.

The judgment is affirmed. Respondent is awarded costs. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

A100240 -- R. Thomas Fair v. Karl E. Bakhtiari et al.

The order denying plaintiff's motion to compel arbitration is reversed. The matter is remanded to the trial court with directions to vacate its order denying plaintiff's motion to compel arbitration, and to enter an order granting that motion. Costs on appeal are awarded to plaintiff. Kline, P.J. We Concur: Haerle, J., Ruvolo, J. (Certified for Partial Publication.)

A104398 -- The People v. Benjamin Bruce Perry.

The matter is remanded for resentencing in light of *Blakely, supra*, ___ U.S. ___ [124 S.Ct. 2531]. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

Monday, August 31, 2004

A104117 -- Michael J. Seligsohn et al. v. Philip R. Day, Jr., et al.

By the Court: It is ordered that the opinion filed herein on August 10, 2004, be modified as follows: (See order.) This modification does not effect a change in the judgment. The petition for rehearing is denied. Haerle, Acting P.J. (Certified for Publication.)

A104992 -- The People v. Lenore Marie Thur.

The judgment is affirmed. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Division Three

A100420 -- The People v. Gary L. Copeland.

The judgment of conviction of inflicting corporal injury on a spouse is affirmed. The trial court's true finding of the prior prison term allegations and the imposed sentence enhancements under section 667.5(b), are reversed. The matter is remanded to the trial court for a new adjudication of the prior prison term allegations under section 667.5(b), either by admission or trial, and for resentencing. McGuiness, P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

A105199 -- The People v. Keith Leviol Johnson.

The judgment is affirmed. Parrilli, J. We Concur: McGuiness, P.J., Pollak, J. (Certified for Publication.)

A105053 -- In re James K., a Person Coming Under the Juvenile Court Law. The People v. James K.

The order is affirmed. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

A104195 -- The People v. William Era Basil McCardle.

The judgment is reversed. Parrilli, J. We Concur: Corrigan, Acting P.J., Pollak, J. (Not for Publication.)

Monday, August 31, 2004 (continued)

A103727 -- The People v. National Automobile and Casualty Insurance Company.

The order denying appellant's motion to vacate forfeiture and exonerate the bond is affirmed. McGuiness, P.J. We Concur: Corrigan, J., Pollak, J. (Certified for Publication.)

A105327 -- In re Andrew W., et al., a Person Coming Under the Juvenile Court Law. Contra Costa County Social Services v. Sabine W.

By the Court: The appeal is dismissed. McGuiness, P.J. We Concur: Corrigan, J., Pollak, J. (Not for Publication.)

A103424 -- The People v. Troy John Willis.

The judgment is affirmed. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

Division Four

A105058 -- In re Brian A., a Person Coming Under the Juvenile Court Law. The People v. Brian A.

The dispositional order is affirmed. Rivera, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

A105263 -- Richard F. Bergmann v. Malcolm M. Johns et al.

The order setting aside the default is affirmed. The matter is remanded for further proceedings. Rivera, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

A103888 -- Far Eastern Group I v. Thomas C. Hix et al.

The judgment is affirmed. Rivera, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

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A104864 -- NC Venture I v. Meishien Hsu.

Given that Hsu prevailed on Venture's action against him, he was also entitled to attorney fees and costs under the terms of the agreement. For all these reasons, we affirm the judgment. Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

A104244 -- Kenneth B. Tishgart v. Julius DeJesus; Terence Doyle.

The judgment is affirmed. Kay, P.J. We Concur: Reardon, J., Rivera, J. (Not for Publication.)

Division Five

A103529 -- In re Andrew G., a Person Coming Under the Juvenile Court Law. The People v. Andrew G.

The order is vacated and the matter remanded for resentencing. Stevens, Acting P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

A105253 -- Anthony Lamperti v. U.S. Bank et al.

The judgment is affirmed. Stevens, Acting P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

A103350 -- Linda Pickett v. San Mateo Union High School District; The State of California, R.P.I.

The denial of the petition for writ of mandate is affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)

A103271 -- Audrey Potts v. Gilbert T. Graham.

The order denying Graham's section 425.16 motion to strike is reversed. The matter is remanded with directions to enter a judgment dismissing the malicious prosecution action as to defendant Graham and for further proceedings pursuant to section 425.16, subdivision (c). Gemello, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)